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APR 29 2004

EXPRESS MAIL LABEL NO. EV405281343US DATE: 4/20/04

OFFICE OF PETITIONS

**Petition to Withdraw
Holding of Abandonment**

Address to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attorney Docket	2300-1492
Confirmation No.	8702
First Named Inventor	WILLIAMS, LEWIS T.
Application Number	09/404,706
Filing Date	September 23, 1999
Group Art Unit	1631
Examiner Name	ZHOU, SHUBO
Title	"HUMAN GENES AND GENE EXPRESSION PRODUCTS"

#20
Plunkert
6/9/04

Sir:

This petition is submitted to the Commissioner of Patents and Trademarks under 37 C.F.R. § 1.181, and is responsive to the Notice of Abandonment dated April 6, 2004

Please charge the \$130.00 fee for filing this Petition to Account No. 500815. If this fee is incorrect, please charge or credit the account accordingly.

The Applicants hereby petition the Commissioner of Patents and Trademarks to withdraw the Office's holding of abandonment of the above-referenced application. Applicants request favorable consideration of this petition for the following reason:

The Notice of Abandonment dated April 6, 2004 (attached hereto), indicates that the above-referenced application is abandoned because the Office did not receive a reply to an Office Action dated July 16, 2003.

However, the Applicants respectfully submit that a Response to the Office Action dated July 16, 2003 was filed at the U.S.P.T.O. on October 16, 2003. In support the Applicant's position, attached hereto are three exhibits:

Exhibit A, a 15 page Response to the above-referenced Office Action, signed by myself on October 16, 2003;

Exhibit B, a copy of a postcard mailed with the above-referenced Response, stamped as being received by the OIPE on October 16, 2003; and

Exhibit C, an Express mail receipt and Express mail certification, indicating that the above-referenced Response was deposited with the U.S. Postal Service on October 16, 2003.

The date is clearly shown on each of these documents.

04/28/2004 SLUANG1 00000011 500815 09404706

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Accordingly, the Applicants respectfully submit that a Response to the above-referenced Office Action was filed at the U.S.P.T.O. on October 16, 2003.

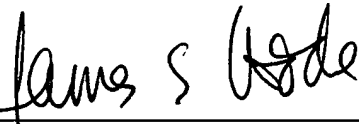
Since October 16, 2003, is before the end of the three month reply period set forth in the above-referenced Office Action, the Applicants respectfully submit that the response was timely filed, and, as such, the response should be entered and the Office's holding of abandonment should be withdrawn.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number 2300-1492

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: April 20, 2004

By


James S. Keddie, Ph.D.
Registration No. 48,920

BOZICEVIC, FIELD & FRANCIS LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 327-3400
Facsimile: (650) 327-3231

Attachments:

- Notice of Abandonment dated April 6, 2004
- Exhibit A: Copy of 15 page response filed on October 16, 2004
- Exhibit B: Copy of postcard stamped by OIPE on October 16, 2003
- Exhibit C: Copy of Express Mail receipt, dated October 16, 2003

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,706	09/23/1999	LEWIS T. WILLIAMS	2300-1492	8702

27476 7590 04/06/2004

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097



EXAMINER

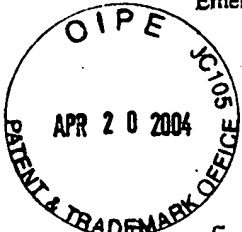
ZHOU, SHUBO

ART UNIT PAPER NUMBER

1631

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DATE MAILED: 04/06/2004



Please find below and/or attached an Office communication concerning this application or proceeding.

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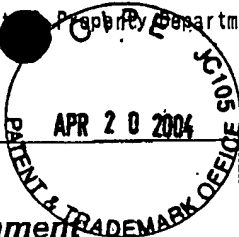
COPY

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MAY 13 2004

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DOCKETED on/by 4/8/04 and
 Att. CAL PA
 FILE # PP01492.002
 Date Ext
 Status abandoned

**Notice of Abandonment**

Application No.

09/404,706

Examiner

Shubo "Joe" Zhou

Applicant(s)

WILLIAMS ET AL.

Art Unit

1631

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

This application is abandoned in view of:

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1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 16 July 2003.

- (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
- (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).

- (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

Telephone message was left to applicants' representative Carol Francis, but no reply was received by the Office.

John Brusca 3 April 2004
JOHN S. BRUSCA, PH.D.
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.